

The examiner's point regarding arguing claimed limitations is well taken. Claim 1 has been amended to clarify that changes in the foodstuff cause changes in the effects generated. The term, "produces," has been changed because the word implies making the effect as well as initiating the effect. The latter interpretation is better defined by - -causes- - as now recited in the claim.

Also, the claim has been amended to title the Markush group as an - -effect- - and this title allows shortening of the claim by merely referring to the title subsequently.

These amendments do not raise any new issues and present the claims in better form for appeal.

The examiner offers the dictionary definition for the word, "altering," as applying to the claim language. However, it is a well settled principle of patent law that the inventor may be his own lexicographer. Therefore, the word, altering, must be interpreted in light of this specification and not the Merriam-Webster's Collegiate Dictionary. It would appear that the examiner has recognized the meaning of the term by stating, in this final rejection, that the Rudell et al patent, "fails to teach wherein physical interaction with said foodstuff wherein (sic) said foodstuff holding device produces corresponding changes in said at least one of said group * * *."

Claims 1 and 2 stand rejected under 35 USC 103 as obvious in view of Rudell et al and McCaslin. Rudell et al disclose a

foodstuff which completes an off-on circuit by fluid flow or touch. McCaslin teaches a baton or wand wherein light intensity changes as pressure changes. There is absolutely nothing to relate these two devices to each other, other than this inventor's own disclosure. Without any motivational link between the two references, the combination can only be made with hindsight and the link furnished by this specification. It is also a well recognized principle of patent law that hindsight cannot be used to create a new teaching that did not exist before the invention by this applicant. Obviousness must be determined at the time of the invention not after reading the instant specification.

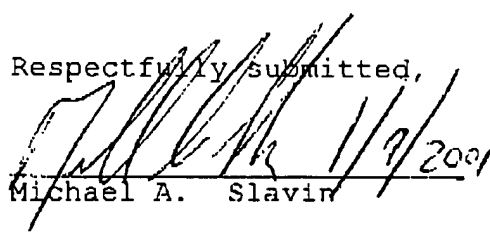
Claim 9 stands rejected as obvious under 35 USC 103 in view of Rudell et al, McCaslin and Matsuyama. The combination of Rudell et al and McCaslin has been discussed above and is repeated here. Further, the claim recites that the effect produced by the foodstuff is a change in the perception of taste of the foodstuff. Matsuyama teaches producing an electrical shock in a lighter strong enough for the user to drop the lighter. There is nothing in Matsuyama that would teach one of ordinary skill in the art to make a foodstuff that would change taste.

In response to the FINAL Office Action of Dec. 7, 2000, Applicant requests entry of this amendment for re-examination and reconsideration of this application. The proposed amendment raises no new issues and more particularly points out and claims the

invention.

It is respectfully submitted that the Examiner will now find the claims of the application allowable. If the Examiner maintains the FINAL rejection, it is requested that this amendment be entered as placing the case in better form for appeal.

Respectfully submitted,


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